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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

T.B., Allison Brenneise and Robert Brenneise, Plaintiffs, v. San Diego Unified School District, Defendant.	Case No. 08 CV 0028 WQH WMc **NOTICE OF MOTION AND MOTION TO DISMISS THIRD AND FOURTH CLAIMS** Date: May 12, 2008 Time: 11:00 a.m. Dept.: 4 Judge: Hon. William Q. Hayes Complaint Filed: January 4, 2008 NO ORAL ARGUMENT UNLESS REQUESTED BY THE COURT

TO ALL PARTIES AND TO THEIR RESPECTIVE ATTORNEYS OF RECORD:

PLEASE TAKE NOTICE that on May 12, 2008, at 11:00 a.m. or as soon thereafter as the matter may be heard in Courtroom 4 of the above-entitled Court, located at 940 Front Street, San Diego, California, 92101, Defendant San Diego Unified School District ("District") will and hereby does move this Court for an order dismissing with prejudice Plaintiffs' Third and

Fourth Claims for Relief pursuant to Federal Rules of Civil Procedure, rule 12, subdivisions (b)(1) and (b)(6) as Plaintiffs have failed to state a claim upon which relief may be granted and this Court lacks jurisdiction over their claims. (Fed. Rules Civ. Proc., rules 12(b)(1) and 12(b)(6).)

This motion is based upon this Notice of Motion, the Memorandum of Points and Authorities and Request for Judicial Notice submitted concurrently herewith, the pleadings and papers on file herein and such further documentary or oral evidence and argument as may be presented at the hearing.

Dated: April 1, 2008

MILLER BROWN & DANNIS

By: /sAmy R. Levine
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